IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO. 29 OF 2001

M/s. J. N. Traders.... ... .Petitioner.

Versus

M/s. Continental Castings Limited.... Respondent.

Mr. B. K. Bali i/by Thakkar & Bali
for the Petitioner.

CORAM: A. M. KHANWILKAR, J.

DATE : 2ND AUGUST, 2005

P.C.:

Heard Counsel for the Petitioner. None appears for the Respondents, though served. No reply has been filed opposing this petition.

2. According to the Petitioner, the Petitioner sold, supplied and delivered goods to the Respondent Company as per their requisitions from time to time. The amount of the goods sold, supplied and delivered comes to around Rs.30 lakhs. The Respondent Company made part payments. However, as on 12th August, 2000 a sum of Rs.26,20,882.07 remained due and payable by the Respondent Company to the Petitioner. At no point of

time, the Respondent Company raised dispute regarding quality or quantity of the goods. The liability to pay the amount in that sense is acknowledged by the Respondent Company. Inspite of repeated reminders, the Respondent Company failed to pay the amount for which reasons the Petitioner eventually sent statutory notice on 12th August, 2000. No reply was sent by the Respondent Company to this statutory notice, nor amount has been paid to the Petitioner. Eventually, this petition has been filed on 30th November, 2000. This Petition has been admitted on 13th June, 2001 and has been duly advertised and published. Inspite of that none appears for the Respondent Company. No reply has been filed opposing this Petition. In other words, assertion made in the petition, which are supported by the documents placed on record, have remained uncontroverted. In that sense the legal presumption against the Respondent Company arises that it is unable to pay its debts has remained unrebutted. In that situation, this Court has no option but to allow the prayer of the Petitioner for winding up of the Respondent Company.

3. Accordingly, this petition is made absolute in terms of prayer clauses (a) and (b).

Sd/-

(A.M.KHANWILKAR, J.)